Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition	)	GN Docket No. 12-353

COMMENTS OF CABLEVISION SYSTEMS CORPORATION

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Cablevision Systems Corporation ("Cablevision") hereby submits comments on AT&T's proposal for the Commission to conduct "trial runs" in which incumbent local exchange carriers ("ILECs") would convert circuit-switched facilities to Internet Protocol ("IP") facilities in particular wire centers.[1] As explained below, Cablevision supports AT&T's Petition with the important caveat that, even in such trial runs, the Commission should ensure that ILECs honor requests to provide interconnection for voice service in IP. FCC oversight of interconnection with ILECs remains necessary, regardless of the technology used, in order to ensure a competitive marketplace that promotes consumer choice and fosters investment in IP networks by all providers.

INTRODUCTION AND SUMMARY

Cablevision has long supported efforts to advance the transition of the nation's telephone network to IP technology. Cablevision entered the voice market as a competitive local exchange carrier ("CLEC") shortly after enactment of the Telecommunications Act of 1996 ("1996 Act"), providing circuit-switched services to residential and business customers. Since that time,

[1] *See* AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN 12-353 (Nov. 7, 2012) ("AT&T Petition").

Cablevision has invested billions of dollars to construct a state-of-the-art fiber network that currently serves over three million subscribers in Cablevision's core service territory in the tri-state area of New York, New Jersey, and Connecticut, and thousands of additional subscribers in Colorado, Montana, and Wyoming. Cablevision uses this network to provide high-speed Internet service, video, and voice services to its customers. With respect to voice services, Cablevision has largely completed the IP transition and now provides most of its customers – and all of its residential customers – service using Voice over Internet Protocol ("VoIP"). Cablevision's investment in voice services and IP technology has enabled it to bring the benefits of competition to its customers in urban, suburban, and rural communities.

Notwithstanding Cablevision's investments in its IP network, ILECs continue to insist that it interconnect and exchange traffic with them exclusively in Time Division Multiplex ("TDM") format. This mode of interconnection is highly inefficient, requiring Cablevision to convert its own IP traffic to and from TDM solely for purposes of interconnection. Cablevision must also invest in facilities to carry this TDM traffic.

The inability to obtain IP interconnection is a significant barrier to the industry-wide transition to IP facilities that AT&T advocates. Large ILECs may have little incentive to upgrade their interconnection facilities to IP, as they derive revenues from transporting TDM traffic and raise their IP-based competitors' costs by requiring them to convert traffic to TDM. CLECs (and smaller ILECs) may be hesitant to invest in IP facilities if they are not going to be able to interconnect with large ILECs in IP. And providers like Cablevision, which have made the considerable investments necessary to transition to IP networks, are unable to fully realize the efficiencies and consumer benefits of those investments if they must downconvert their traffic to TDM. Accordingly, if the Commission is to conduct a proceeding to "facilitate the

'telephone' industry's continued transition" to IP as AT&T requests, AT&T Petition at 1, any such proceeding must ensure the availability of IP interconnection on reasonable terms.

DISCUSSION

A. FCC Oversight of Interconnection Obligations Remains Necessary Irrespective of the Network Technology Used.

Interconnection among networks on just and reasonable terms is essential to ensuring healthy competition. Nothing about the move to IP networks or IP interconnection changes that fact. While AT&T suggests that ILEC IP interconnection obligations are "no longer necessary or appropriate" as a matter of policy, *see* AT&T petition at 22, that is simply untrue. To be sure, competitive providers have made substantial inroads in some local retail markets for voice services, and ILECs no longer enjoy the "monopoly" power over all the retail markets that they previously held, *see* AT&T Petition at 11. But those facts do not justify the deregulation AT&T seeks. Today, as in 1996 when Congress created the ILEC interconnection obligations, ILECs hold disproportionate power in the market for interconnection services. Among other things:

- Interconnection agreements are negotiated at the state or multi-state level. Thus, while competitive providers may have made significant inroads in some local markets, ILECs continue to control larger geographical areas and thus retain dominant positions in interconnection negotiations.

- Through affiliated entities, large ILECs control significant volumes of wireless and international traffic, and they can and do leverage this power in interconnection negotiations.

- Due to both the more recent entry of competitive providers into the market and the fact that is highly inefficient for a multitude of competitive carriers to each interconnect with one another separately, competitive providers frequently exchange traffic indirectly, by means of mutual interconnection with the local ILEC. As a result, ILECs as a practical matter control access not only to their own traffic and that of their affiliates, but also of unaffiliated competitive providers with whom they directly interconnect.

The combination of these factors continues to provide ILECs with meaningful market power which, if unrestrained by government oversight, would allow them to exploit their

dominant position to the disadvantage of competitive providers – the exact reason Congress gave the Commission such oversight responsibility in the first instance. The facts are clear that market forces alone have not been able to overcome ILECs' consistent refusal to interconnect in IP on reasonable terms. Any relaxation of "legacy" ILEC regulations in the requested proceeding that weakens interconnection obligations would therefore risk harming consumers and competition.

B. IP Interconnection Obligations Remain Important Even in Trial Runs.

AT&T suggests that interconnection obligations should not apply in the context of the trial runs it proposes, because, AT&T argues, such trial runs should be allowed to prove that such obligations are unnecessary. *See* AT&T Petition at 22. As discussed above, however, because interconnection agreements are negotiated at levels far larger than individual wire centers, the outcomes of negotiated, unregulated IP interconnection agreements at the wire center level would be of little value in predicting the likely results of interconnection negotiations in the actual marketplace.

Moreover, ILECs would have every motive to manipulate the results of such trial runs to favor their desired policy outcomes. Given ILECs' continued market power, they would be able to simply negotiate deals that arrive at whatever terms they deem most helpful in convincing the Commission that oversight of interconnection agreements is no longer needed when traffic is exchanged in IP.[2] The predictable result of such trial runs is that ILECs would simply decline to

[2] *Cf. In re Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, Second Report and Order, 26 FCC Rcd 5411, 5426, ¶ 27 (2011) ("We are also concerned that the recent successes by some providers in obtaining 3G data roaming agreements or offers may have been the result of large providers seeking to defuse an issue under active Commission consideration and may not accurately reflect the ability of requesting providers to obtain data roaming arrangements in the future if the Commission were to decide not to adopt any data roaming rules.") (footnote omitted).

exploit their market power during the "trial" phase (and enter into a handful of negotiated agreements on terms comparatively reasonable to the interconnecting party), and then turn around and extract monopoly rents as soon as they are released more permanently from their interconnection obligations. Put simply, there is no reason to trust that the trial runs proposed by AT&T would yield anything resembling the actual results of the "market-based, regulation-free" interconnection regime that AT&T ultimately desires. AT&T's August 30, 2012 *Ex Parte,* WC Docket No. 10-90 *et al.*, attachment at 2.

C. IP Interconnection Arrangements Are Subject to the Requirements of Section 251.

There remains the question of what standard should govern AT&T's interconnection arrangements during the trial, and beyond. The answer is contained in existing law, which, as Cablevision has explained, applies regardless of technology or the regulatory classification of retail VoIP traffic.

AT&T's Petition suggests that when an ILEC has transitioned facilities to IP technology – whether within a trial run or otherwise – Section 251 is no longer applicable.[3] This claim misreads the law. Section 251(c)(2) of the Communications Act requires ILECs to provide IP interconnection for exchanging such traffic.[4] The statute is technology neutral; it requires "interconnection with the local exchange carrier's network" without limiting that obligation to the use of any particular technology. Indeed, the Commission has previously held that "the interconnection obligations set forth in section 251(c)(2) apply to packet-switched services as

[3] *See* AT&T Petition at 22; AT&T's August 30, 2012 *Ex Parte*, Docket No. WC 10-90 *et al.*, attachment at 1-2 (requesting that the Commission "maintain the market-based, regulation-free interconnection regime that has applied to IP-based interconnection" and that it "forbear from application of section 251(c)(2) interconnection and other requirements" with respect to IP interconnection).

[4] *See generally* Comments of Cablevision Systems Corp. and Charter Communications, Inc., WC Docket No. 11-119 (Aug. 15, 2011) ("Cablevision/Charter Comments").

well as circuit-switched services."[5] Section 251(c)(2) also requires ILECs to offer interconnection "that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary [or] affiliate," an obligation that obligates ILECs to provide IP interconnection where the ILEC itself uses IP technology in its own network or interconnects in IP with an affiliated IXC or other provider, as many large ILECs clearly do.[6]

Accordingly, in conducting any trial runs like those AT&T seeks, the Commission should make clear that ILECs must provide IP interconnection as required by the statute. Cablevision would prefer to enter mutually beneficial voluntary agreements with ILECs to interconnect in IP, as the statute allows, *see* 47 U.S.C. § 252(a)(1), but in the absence of such agreements, the backstop of the interconnection obligations in the Communications Act remains essential.

CONCLUSION

For the reasons described above, the Commission should grant AT&T's Petition in part and open a proceeding to consider the steps it might take to facilitate the IP transition. However, to ensure that competition remains protected as ILECs transition to new equipment, the Commission should make clear that ILECs must comply with their legal obligation to provide interconnection for voice service in IP, whether in the context of "trial runs" or otherwise.

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[5] *In re Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Order on Remand, 15 FCC Rcd 385, 395, ¶ 22 (1999), *vacated in part and remanded on other grounds, WorldCom, Inc. v. FCC*, 246 F.3d 690 (D.C. Cir. 2001).

[6] 47 U.S.C. §251(c)(2)(C); *see* Cablevision/Charter Comments at 5-7.

Respectfully Submitted,

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